

deliveries, resolve delivery conflicts, place rated orders, locate suppliers, or verify information supplied by customers and vendors. Special priorities assistance may also be used to request rating authority for items that are not normally eligible for priority treatment.

(c) A request for special priorities assistance or priority rating authority must be submitted on Form AD-2102 (OMB Control Number 0560-0280) to the Farm Service Agency as provided in paragraph (a) of this section. Form AD-2102 may be obtained from USDA by downloading the form and instructions from <http://forms.sc.egov.usda.gov/eForms/welcomeAction.do?Home> or by contacting the Administrator of the Farm Service Agency as specified in § 789.73. Either mail or fax the form to USDA, using the address or fax number shown on the form.

**§ 789.21 Requests for priority rating authority.**

(a) *Rating authority for items or services not normally rated.* If a rated order is likely to be delayed because a person is unable to obtain items or services not normally rated under this part, the person may request the authority to use a priority rating in ordering the needed items or services.

(b) *Rating authority for production or construction equipment.* For a rated order for production or construction equipment not under the resource jurisdiction of USDA, follow the regulation in 15 CFR part 700.

(1) A request for priority rating authority for production or construction equipment must be submitted to the U.S. Department of Commerce on Form BIS-999 (see 15 CFR 700.51). Form BIS-999 may be obtained from USDA as specified in § 789.20(c) or from the Department of Commerce as specified in 15 CFR 700.50.

(2) When the use of a priority rating is authorized for the procurement of production or construction equipment, a rated order may be used either to purchase or to lease such equipment. However, in the latter case, the equipment may be leased only from a person engaged in the business of leasing such equipment or from a person willing to lease rather than sell.

(c) For rating authority in advance of a rated prime contract:

(1) In certain cases and upon specific request, USDA, in order to promote the national defense, may authorize a person to place a priority rating on an order to a supplier in advance of the issuance of a rated prime contract. In these instances, the person requesting advance rating authority must obtain sponsorship of the request from USDA. The person assumes any business risk associated with the placing of a rated order if the order has to be canceled in the event the rated prime contract is not issued.

(2) The person must state the following in the request:

It is understood that the authorization of a priority rating in advance of our receiving a rated prime contract from USDA and our use of that priority rating with our suppliers in no way commits USDA or any other government agency to enter into a contract or order or to expend funds. Further, we understand that the Federal Government will not be liable for any cancellation charges, termination costs, or other damages that may accrue if a rated prime contract is not eventually placed and, as a result, we must subsequently cancel orders placed with the use of the priority rating authorized as a result of this request.

(3) In reviewing requests for rating authority in advance of a rated prime contract, USDA will consider, among other things, the following criteria:

(i) The probability that the prime contract will be awarded;

(ii) The impact of the resulting rated orders on suppliers and on other authorized programs;

(iii) Whether the contractor is the sole source;

(iv) Whether the item being produced has a long lead time; and

(v) The time period for which the rating is being requested.

(4) USDA may require periodic reports on the use of the rating authority granted through paragraph (c) of this section.

(5) If a rated prime contract is not issued, the person will promptly notify each supplier who has received any rated order related to the advanced rating authority that the priority rating on the order is canceled.